

of the replacement surety bond or trust fund agreement. However, such termination shall not affect the liability of the surety or the trustee hereunder for the payment of any damages arising as the result of contracts, agreements or arrangements made by the broker for the supplying of transportation prior to the date such termination becomes effective.

(3) *Filing and copies.* Broker surety bonds and trust fund agreements must be filed with the Commission in duplicate.

[53 FR 10396, Mar. 31, 1988]

§ 1043.5 Qualifications as a self-insurer and other securities or agreements.

(a) *As a self-insurer.* The Commission will consider and will approve, subject to appropriate and reasonable conditions, the application of a motor carrier to qualify as a self-insurer, if the carrier furnishes a true and accurate statement of its financial condition and other evidence that establishes to the satisfaction of the Commission the ability of the motor carrier to satisfy its obligation for bodily injury liability, property damage liability, or cargo liability. Application Guidelines: In addition to filing Form B.M.C. 40, applicants for authority to self-insure against bodily injury and property damage claims should submit evidence that will allow the Commission to determine:

(1) The adequacy of the tangible net worth of the motor carrier in relation to the size of operations and the extent of its request for self-insurance authority. Applicant should demonstrate that it will maintain a net worth that will ensure that it will be able to meet its statutory obligations to the public to indemnify all claimants in the event of loss.

(2) *The existence of a sound self-insurance program.* Applicant should demonstrate that it has established, and will maintain, an insurance program that will protect the public against all claims to the same extent as the minimum security limits applicable to applicant under § 1043.2 of this part. Such a program may include, but not be limited to, one or more of the following: Irrevocable letters of credit; irrevocable trust funds; reserves; sinking

funds; third-party financial guarantees, parent company or affiliate sureties; excess insurance coverage; or other similar arrangements.

(3) *The existence of an adequate safety program.* Applicant must submit evidence of a current "satisfactory" safety rating by the United States Department of Transportation. Non-rated carriers need only certify that they have not been rated. Applications by carriers with a less than satisfactory rating will be summarily denied. Any self-insurance authority granted by the Commission will automatically expire 30 days after a carrier receives a less than satisfactory rating from DOT.

(4) *Additional information.* Applicant must submit such additional information to support its application as the Commission may require.

(b) *Other securities or agreements.* The Commission also will consider applications for approval of other securities or agreements and will approve any such application if satisfied that the security or agreement offered will afford the security for protection of the public contemplated by 49 U.S.C. 10927.

[48 FR 51780, Nov. 14, 1983 and 51 FR 15008, Apr. 22, 1986, as amended at 52 FR 3815, Feb. 6, 1987]

§ 1043.6 Bonds and certificates of insurance.

(a) *Public liability.* Each Form BMC 82 surety bond filed with the Commission must be for the full limits of liability required under § 1043.2(b)(1). Form MCS-82 surety bonds and other forms of similar import prescribed by the Department of Transportation, may be aggregated to comply with the minimum security limits required under § 1043.2(b)(1) or § 1043.2(b)(2). Each Form BMC 91 certificate of insurance filed with the Commission will always represent the full security minimum limits required for the particular carrier, while it remains in force, under § 1043.2(b)(1) or § 1043.2(b)(2), whichever is applicable. Any previously executed Form BMC 91 filed before the current revision which is left on file with the Commission after the effective date of this regulation, and not canceled within 30 days of that date will be deemed to certify the same coverage limits as would the filing of a revised Form BMC

91. Each Form BMC 91X certificate of insurance filed with the Commission will represent the full security limits under § 1043.2(b)(1) or § 1043.2(b)(2) or the specific security limits of coverage as indicated on the face of the form. If the filing reflects aggregation, the certificate must show clearly whether the insurance is primary or, if excess coverage, the amount of underlying coverage as well as amount of the maximum limits of coverage.* Each Form BMC 91MX certificate of insurance filed with the Commission will represent the security limits of coverage as indicated on the face of the form. The Form BMC 91MX must show clearly whether the insurance is primary or, if excess coverage, the amount of underlying coverage as well as amount of the maximum limits of coverage.

(b) *Cargo Liability.* Each form B.M.C. 83 surety bond filed with the Commission must be for the full limits of liability required under § 1043.2(c). Each Form B.M.C. 34 certificate of insurance filed with the Commission will represent the full security limits under § 1043.2(c) or the specific security limits of coverage as indicated on the face of the form. If the filing reflects aggregation, the certificate must show clearly whether the insurance is primary or, if excess coverage, the amount of underlying coverage as well as amount of the maximum limits of coverage.

(c) Each policy of insurance in connection with the certificate of insurance which is filed with the Commission, shall be amended by attachment of the appropriate endorsement prescribed by the Commission or the Department of Transportation and the certificate of insurance filed must accurately reflect that endorsement.

[47 FR 55944, Dec. 14, 1982, as amended at 48 FR 43332, Sept. 23, 1983; 48 FR 51781, Nov. 14, 1983; 50 FR 40030, Oct. 1, 1985]

§ 1043.7 Forms and procedures.

(a) *Forms for endorsements, certificates of insurance and others.* (1) *In form pre-*

*NOTE: Aggregation to meet the requirement of § 1043.2(b)(1) will not be allowed until the completion of our rulemaking in Ex Parte No. MC-5 (Sub-No. 2), *Motor Carrier and Freight Forwarder Insurance Procedures and Minimum Amounts of Liability*.

scribed. Endorsements for policies of insurance and surety bonds, certificates of insurance, applications to qualify as a self-insurer, or for approval of other securities or agreements, and notices of cancellation must be in the form prescribed and approved by the Commission.

(2) *Aggregation of Insurance.*** When insurance is provided by more than one insurer in order to aggregate security limits for carriers operating only freight vehicles under 10,000 pounds Gross Vehicle Weight Rating, as defined in § 1043.2(b)(1), a separate *Form BMC 90*, with the specific amounts of underlying and limits of coverage shown thereon or appended thereto, and *Form BMC 91X* certificate is required of each insurer.

For aggregation of insurance for all other carriers to cover security limits under § 1043.2 (b)(1) or (b)(2), a separate Department of Transportation prescribed form endorsement and *Form BMC 91X* certificate is required of each insurer. When insurance is provided by more than one insurer to aggregate coverage for security limits under § 1043.2(c) a separate Form BMC 32 endorsement and Form BMC 34 certificate of insurance is required for each insurer.

For aggregation of insurance for foreign motor private carriers of non-hazardous commodities to cover security limits under § 1043.2(b)(4), a separate Form BMC 90 with the specific amounts of underlying and limits of coverage shown thereon or appended thereto, or Department of Transportation prescribed form endorsement, and Form BMC 91MX certificate is required for each insurer.

(3) *Use of Certificates and Endorsements in BMC Series.* *Form BMC 91* certificates of insurance will be filed with the Commission for the full security limits under § 1043.2 (b)(1) or (b)(2).

**NOTE: See NOTE for Rule 1043.6. Also, it should be noted that DOT is considering prescribing adaptations of the Form MCS 90 endorsement and the Form MCS 82 surety bond for use by passenger carriers and Rules §§ 1043.6 and 1043.7 have been written sufficiently broad to provide for this contingency when new forms are prescribed by that Agency.